

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

16 DEC -5 PM 3:01
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY AD
DEPUTY CLERK

ALLIED LOMAR, INC.,
Plaintiff,

-vs-

Case No. A-14-CA-1078-SS

**LONE STAR DISTILLERY, LLC d/b/a Garrison
Brothers Distillery; and DOES 1 THROUGH 10,**
Defendants.

ORDER OF MISTRIAL

BE IT REMEMBERED on this the 5th day of December 2016 the Court called the above-captioned case and all parties announced ready for trial. A jury comprised of six legally and duly qualified jurors was empaneled, and the case proceeded through opening statements and to the presentation of evidence. Plaintiff Allied Lomar, Inc. (Allied) called Marci Palatella, the President of Allied, as its first witness. When questioned by Allied's counsel, Ms. Palatella advised the jury Allied's largest sale was the recent sale of 5,000 cases. Defendant Lone Star Distillery, LLC d/b/a Garrison Brothers Distillery (Defendant) objected, thereafter moving for a mistrial.

Prior to the empaneling of the jury, the Court had explicitly ordered Allied to "approach the bench, advise of its intention regarding any product released subsequent to the filing of this lawsuit to obtain a ruling on admissibility prior to any exposure of the same to the jury." Order of Dec. 1, 2016 [#141]. Following Defendant's objection, the Court confirmed with Allied's counsel that the 5,000 cases were sold after the lawsuit was filed. After consideration of Defendant's motion, the

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prejudicial violation of the Court's prior order, and the substantive law, the Court granted the motion for a mistrial, discharged the jury, and now formally confirms said order.

IT IS ORDERED that the above- captioned case is mistried; and

IT IS FURTHER ORDERED that counsel for the Plaintiff Allied Lomar, Inc. shall notify the Court, with copy to counsel for the Defendant, within seven (7) days of this order whether Plaintiff wishes the Court to set this case again on the trial docket.

SIGNED this the 5th day of December 2016.



SAM SPARKS
UNITED STATES DISTRICT JUDGE